

HARRINGTON (A.H.)

THE

Legislative Provisions for Insane Criminals in
Massachusetts

BY

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THE LEGISLATIVE PROVISIONS FOR INSANE CRIMINALS IN MASSACHUSETTS.¹

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If we study the legislation of the State of Massachusetts from an early period which makes provision for the insane, we shall find at quite an early date, as early in fact as 1816, a statute providing for the custody of certain persons belonging to the class called the "criminal insane." This statute provided that if persons, while being held for crimes and offences, were found to be dangerously insane, they should be committed by the legal authority "to prison." This law stood upon the Statute Book until 1832, the object of it being apparently to merely protect the community against *certain* dangerously insane persons.

The question of medical treatment does not appear to have entered to any extent into the care of such persons, but it must be remembered that previous to 1834, the prisons and gaols were the common receptacles for the *insane* as well as criminals, and the condition of the *insane criminal* may have been no worse than that of the insane in general who became public charges.

In the year 1832, an act was passed authorizing the commitment of the persons designated in the act of 1816 to the State Lunatic Hospital at Worcester, as soon as it should be opened. And soon afterwards provisions were made for the commitment of *all* penal cases becoming insane, to the State Lunatic Hospital.

The year 1832, then, may be regarded as marking

¹ Read before the New England Psychological Society, September 24, 1895.

the beginning of special legislative acts which have had in view the care and the cure of the insane of the convict and criminal class.

The provisions of these acts have placed the convict and criminal insane on an equal footing with all other insane persons who are cared for at the public expense, as far as affording them conditions which would contribute in the highest degree to their care or to the amelioration or cure of their mental disease. All of these provisions reveal a sentiment the equity of which no one will deny. The insane person, no matter what his moral status or antecedents or how he may be regarded by the light of the law, whether he is innocent of crime, or a convicted felon, is *one* sick and suffering, and the common sentiment of our time dictates that all such are equally entitled to care, to measures of relief or to conditions which will promote recovery from mental disease. Massachusetts has for many years responded fully to this sentiment; but she has done so by bringing the insane of all classes, without regard to their moral status, their antecedents, or their position before the law, together in the wards of our State hospitals. In no other way was it regarded as practicable by the State to give the insane of the *criminal* class the care which persons mentally diseased ought to have.

But actual experience has demonstrated, both from the material and moral standpoint, the disadvantage and the impropriety of treating under one roof the criminal and non-criminal insane. Abundant testimony to this effect is to be found in hospital reports. The presence of criminals serves in a great measure to retard the diminution of the use of restraint of all kinds. Windows, bars, locks and doors must be so constructed as to foil ingenious attempts at escape. The comfort and liberty of innocent persons has often

to be sacrificed for the sake of security, when there are criminals upon our wards who are still under sentence.

The injustice as well as the impropriety of this system, it seems to me, could not fail to force itself upon the minds of all who have seen upon the wards of our State hospitals those whose lives have been vicious and criminal, side by side with innocence, with respectability, and with those who have been honored citizens in our midst.

But we have only to go outside the statutes, to public documents in which questions relating to the insane are discussed, to find that for many years there has been a strong sentiment existing in Massachusetts, which has been at times an active one and which has called emphatically for some legislation which would relieve the hospitals of the convict and criminal class, and at the same time afford this class the same care and treatment for mental disease which they ought to receive and which they have received in the State hospitals. We shall see in what follows how this sentiment and this demand has been met by the State.

In the year 1864 an appropriation was asked of the Legislature to establish on the lands of the Tewksbury Almshouse an asylum for chronic and harmless insane. This was obtained. At the same time the advocates of an establishment for the insane of the *criminal class* urged an additional appropriation for the establishment of a receptacle for insane criminals at the same place and in connection with the chronic asylum. This plan met with great opposition from the projectors of the chronic asylum. Not that they were opposed to some provisions which should relieve the hospitals of the insane criminals, as far as I have learned, but that they *were* opposed to the plan for connecting it with the asylum for chronic insane at

Tewksbury. However, a bill was passed authorizing an additional appropriation for the establishment of the said receptacle in connection with the asylum at Tewksbury, but the opponents of this measure appear to have done more effectual work after the passage of the act than before, for the asylum for chronic insane at Tewksbury was established, that for *insane criminals* was not. I am informed that *two years* were suffered to elapse without drawing upon the appropriation for the Receptacle for Insane Criminals; and according to the State law the act, in consequence, became void. And thus ended this bit of *negative legislation*. I cite this in order to show that we thus have on record more than thirty years ago the existence of the sentiment in Massachusetts which demanded the separation of the criminal and the non-criminal insane.

From time to time since 1864, the subject of separate provision for the criminal insane has been recurring, and has been forcibly presented to the State on many occasions. At one time "the impropriety and injustice" of thus associating the criminal and the innocent was brought to the notice of the Governor and Council. At one time the State Board of Lunacy and Charity were requested by the Legislature to make a report upon the subject. The Board of Lunacy, as well as the managers of the hospitals, had plans to propose; but when the subject came to the point of legislation, there were so many conflicting opinions that nothing could be accomplished, and the whole matter was allowed to drift.

These matters to which I have merely made reference bring us down to about the year 1886. I wish now to enter briefly upon a period extending from 1886 down to the present day, which in relation to our subject, might be called the *Period of Evolution at the*

State Farm— of an institution which at the last session of the Legislature received the official name of "*State Asylum for Insane Criminals.*" I wish to give you briefly the history of this period, for in no other way I think, can I bring to your minds so clear a comprehension of the present status of this asylum, of what has been accomplished in legislation the past year, and in how far there was a falling off in what was actually accomplished from the original purpose and desire. The facts from which I gather this history are found in reports and public documents, and I am also indebted for much information to Mr. H. M. Blackstone, the Superintendent of the State Farm.

If we go back to the year 1886, we shall find that the institution at Bridgewater, known as the Bridgewater Workhouse (the name has since been changed by legislative enactment to "*State Farm*"), comprised two departments: first, a workhouse department, to which were committed persons found guilty of vagrancy and common drunkenness, and to which they were sentenced for short terms usually; and, second, an almshouse department. These two departments still exist.

The number of the inmates, both of the workhouse and almshouse departments, varied greatly at different seasons of the year. In the winter months the number present would crowd the capacity of the institution, while during the summer months the number would reach low-water mark. The institution possessed a large farm, which with plenty of labor could be made very productive, but just at the season when labor was wanted the most, the able-bodied prisoners and paupers were away upon their "annual vacations," and would not return till fall or winter set in.

In casting about for some remedy for this condition the management of the institution observed that the State lunatic hospitals were complaining of over-

crowding and its attendant disadvantages. The thought suggested itself that if authority could be obtained to make provision for some of the chronic and harmless insane at the State Farm, that the State hospitals would be willing to give up some of their numbers of the chronic and harmless class. It was expected that if this could be done, the State Farm would thus obtain one class of inmates whose numbers would remain nearly constant, who might be employed upon the farm advantageously to themselves, and besides relieving the hospitals to some extent of their numbers and giving to the State Farm a class whose labor could be profitably utilized, they could in addition to all this be supported at considerably less cost than in the large hospitals.

This plan was so feasible and the arguments so conclusive that the Legislature readily authorized the erection at the State Farm at Bridgewater (Chap. 219 of the Acts of 1886) of buildings not to exceed in cost \$50,000, and to accommodate not less than 125 chronic insane men of the pauper and harmless class. Work was begun at once. The buildings were completed the following year, and by the 1st of October, 1887, there had been transferred thereto 130 patients of the quiet and harmless class. The buildings which were built within the appropriation, and which were found capable of accommodating 150 patients, were admirably adapted for just the purpose for which they were intended, namely, the care of the chronic and harmless insane; and as far as this class were concerned, the reports show that the "claims and predictions of the advocates of this movement were fully realized." But within one or two years of the first transfer to this asylum the management began to perceive that the interests of the State hospitals were being consulted in a greater degree, in the class of persons

transferred, than had been anticipated by the State Farm people; for among the persons transferred began to come quite a large number of the *criminal class*. Thus far none of them could be said to be otherwise than harmless, but they were of a different stamp than had been looked for. They did not seem to evince that interest in farming which it was hoped they would; but, on the contrary, they seemed much more anxious to exhibit their skill as "fence-jumpers" and "lock-pickers," as I learn from one of the reports, than they did as agriculturists.

This contingency was one that had not been provided for in the plan of the buildings constructed, but it became necessary to provide for it at once, by some additional construction which would be more secure against escapes; but no sooner were the means to do this asked of the Legislature, than the authorities of State hospitals came forward, and urged strongly that if further appropriations were made for buildings for the insane at Bridgewater, that the transfers thereto should hereafter be wholly from the *convict* and *criminal* class, or those who were *criminal* or *vicious* in their tendencies. The appropriation for a stronger building was obtained, but the statute authorizing it (Chap. 89 of the Acts of 1888) assumed this form, "that there be allowed and paid out of the treasury of the Commonwealth a sum not exceeding \$60,000 for the purpose of erecting and furnishing strong buildings for *insane male criminals*, providing for not less than 100 patients." This building was completed and occupied in the fall of 1890, making the capacity of the department for the insane 250.

The reports of the State Farm from this time on, contain frequent reference to the changing character of the inmates of the asylum. I will quote from the superintendent's report of 1892: "The pauper and

harmless class of inmates with which this asylum first started, are fast disappearing. . . . It will be readily seen that very soon the entire number will be *convicts* and *criminals*. Of the present number (230), there are 127 convicts from the State Prison and houses of correction. The northwest wing, containing fifty strong rooms, is all the sufficiently strong accommodation we have for safe care and keeping of this dangerous class of men. The transfers to the asylum, are all now from the class, who almost without exception, should have a single strong room. To undertake their care in the older asylum buildings on the dormitory plan is positively unsafe and dangerous — escapes will be frequent — and too great hazard attends them." This same report asked for an additional building containing 75 strong rooms. The Legislature saw the necessity for this addition and this building is now nearly completed and is calculated to raise the capacity to 325.

One other stage in the development of this institution was reached by an act (Chap. 251 of the Acts of 1894) the important clause of which reads, "that no person shall be hereafter transferred thereto [meaning the lunatic wards of the State Farm] from a State lunatic hospital, except those transferred and committed to said hospitals from the State Prison, the Massachusetts Reformatory, the jails and the houses of correction of the several counties and the House of Industry of the City of Boston."

This act gave by statute law, it will be seen, a distinct class, namely, *convicts* and *criminals*, and those alone, to the lunatic wards of the State Farm.

Thus far we have seen the gradual transition of this department of the State Farm from its original plan, which contemplated the presence of only 125 insane of the pauper and harmless class, to an organized

asylum for the congregation of over 300 of the most difficult class of the insane to care for and control. The originally lightly constructed buildings, with large dormitories and few single rooms, have had added to them strong buildings containing single rooms only, for the safe-keeping of insane men, who in many instances have long and even life sentences over them, and who sometimes show great ingenuity and persistency in circumventing and overcoming the means put in their way for preventing escape. Among them also are men who from their form of insanity are dangerous. Among them also, are those who respond to measures adopted for their improvement or even recovery.

Much praise is due those who have superintended the general management of this asylum and organized its details up to the time to which I have now brought this history, namely, 1894. But the *lay management* of the State Farm has not been slow in discerning that here was a field which was strictly a professional one, and desired to be relieved of all responsibility for the asylum department, and to place it where it properly belonged — on medical shoulders.

A complete separation of the insane department from the workhouse and almshouse departments by statute was recommended by the Trustees and Superintendent in their last report.

I quote from the Superintendent's report, as follows: "Inasmuch as its character [referring to the asylum department] has so radically changed, having in fact become one of the most difficult class of patients to restrain and manage and requiring expert medical direction, it is a serious question whether it should longer continue as a ward of the State Farm or be separated by statute law and managed distinctly as an independent department or institution." I also quote from the

Trustees' report, as follows: "After a careful examination of the subject by the Trustees, as well as for reasons presented by the Superintendent in his report, it is deemed important and necessary that the legislative authority be given for the entire separation of the management of the insane from the other departments of the institution." During the legislative session of 1895 this matter was brought before the Joint Committee on Charitable Institutions in detailed form.

The plan most desired by the Trustees and local management was an entire sundering of the department for the insane from the rest of the institution under a separate Board of Trustees.

The plan of separation, however, met with decided opposition by the Legislative Committee, the main objections focusing around the policy which is opposed to the multiplication of institutions in Massachusetts. It was evident that there was no disposition on the part of the Committee to look favorably upon any measure which had as its basis a separation by statute law of the asylum from the rest of the institution. But with a view to relieving the lay-superintendency, the management still insisted that there should be some statutory enactment recognizing the professional factor in the conduct of the asylum.

A bill was finally drawn up which was a result of conference between the Legislative Committee, those representing the interests of the State lunatic hospitals, and those representing the interests of the State Farm. [I will say here that the work of formulating this bill was done by the Hon. Edwin B. Harvey, M.D., Chairman of the Committee on Public Charitable Institutions of the legislative session of 1895; by the Hon. Francis C. Lowell, Trustee of the Worcester Lunatic Hospital, and member of the Judiciary Committee of the legislative session of 1895; by Mr.

H. M. Blackstone, Superintendent of the State Farm, and others.]

This bill received the recommendation of the Joint Committee on Public Charitable Institutions; it passed the Legislature without opposition, and became a law in June, 1895.

The provisions of this act, which follows, may be divided, first, into those which are of *local* interest and importance, and, second, into those which are of *general* interest and of *vital* importance to the State lunatic hospitals.

CHAPTER 390 OF THE ACTS OF 1895.

An Act to establish an Asylum for Insane Criminals at Bridgewater, and to provide for and regulate commitments and removals to the same, as follows :

SECTION 1. So much of the Hospital and Almshouse Departments of the State Farm at Bridgewater as was established for the care and maintenance of insane men under the provisions of Chap. 219 of the Acts of the year 1886, Chap. 89 of the Resolves of 1888, and Chap. 48 of the Resolves of 1893, shall hereafter be known and designated — the State Asylum for Insane Criminals.

SECT. 2. The Superintendent of the State Farm, subject to the approval of the Trustees, shall appoint a physician as medical director of the said Asylum, and shall fix his salary. Said director shall have the care and custody of the inmates of the Asylum, and shall govern the same in accordance with the rules and regulations approved by the Trustees.

SECT. 3. The insane male persons mentioned in Sect. 10 (insane convicts in the State Prison or Reformatory Prison), Sect. 12 (insane convicts in a house of correction or prison other than the State Prison or Reformatory Prison), and Sect. 14 (insane persons held in any jail for trial or for sentence, except for a capital crime), of Chap. 222 of the Public Statutes, and Chap. 320 of the Acts and Resolves of the year 1885 (any insane prisoner confined in the Massachusetts Reformatory), shall hereafter be re-

moved to said Asylum for Insane Criminals instead of to a State lunatic hospital.

SECT. 4. The description of insane male persons mentioned in Sect. 15 of Chap. 213 of the Public Statutes (person held in prison on a charge of having committed an indictable offence, but not indicted by the grand jury by reason of insanity), and Sect. 16 (indicted person found to be insane at time of trial), Sect. 19 (person acquitted by reason of insanity), and Sect. 20 (person indicted for murder or manslaughter acquitted by reason of insanity), of Chap. 214 of the Public Statutes, may be hereafter committed or removed to the Asylum for Insane Criminals instead of to a State lunatic hospital as therein provided when in the opinion of the court said insane persons are criminals or have been vicious in their lives.

SECT. 5. The State Board of Lunacy and Charity is hereby authorized to transfer to and from the State lunatic hospitals and the Asylum for Insane Criminals any of the description of persons mentioned in this Act, whenever in its judgment such transfer will insure a better classification of insane criminals.

SECT. 6. The insane persons heretofore transferred to said Hospital and Almshouse Departments and held therein in accordance with existing law, shall be held in said Asylum as though removed thereto under the provisions of this Act, and the State Board of Lunacy and Charity may hereafter transfer and commit thereto any inmate of a State Lunatic Hospital, of the Worcester Insane Asylum or of the State Farm (Prison or Almshouse Department) of the description of persons mentioned in Chap. 251, of the Acts of the year 1894 (persons committed from the State Prison, the Massachusetts Reformatory, the jails and houses of correction of the several counties, and the House of Industry of the City of Boston); and the provisions contained in Sect. 2 of said Chapter relative to the return of such persons to the prison or other (penal) institution, to which they were originally committed, shall apply to all persons removed to the Asylum for Insane Criminals under the provisions of this Act.

SECT. 7. Sect. 21 of Chap. 214 of the Public Statutes is hereby amended by inserting after the word "Hospital,"

in the first line of said section, the words, "or to the State Asylum for Insane Criminals," so that said section will read when amended, "any person committed to a State Lunatic Hospital or to the State Asylum for Insane Criminals under the preceding section (persons found insane and committed after indictment for murder or manslaughter) may be discharged therefrom by the Governor, by and with the advice and consent of the Council, when he is satisfied after a hearing of the matter that such person may be discharged without danger to others."

The radical feature of this act is that portion of it which provides for the commitment of the insane criminals directly to this asylum instead of to the State lunatic hospitals as heretofore. Also, certain of the so-called "court cases," which include persons arrested for crime, but found to be insane, will be committed directly to this asylum if the court determines that they "are criminals or have been vicious in their lives."

It is not claimed that this is a perfect bill in all respects. It was framed to meet the exigencies of the case, and we hope the future will remedy its faults.

Thus I think I have shown you clearly the successive steps by which this department of the State Farm has undergone a complete transition. The original plan of providing for a few chronic and harmless insane having gradually given way to the establishment of an asylum, the function of which is to be the custody and treatment of the insane criminals of the State. You have seen wherein there has been a failure to establish this asylum upon the independent basis recommended by the Trustees. There has been gained, however, to a considerable degree a needed recognition of the professional element in its management; but the greatest gain, I think you will all agree, is the relieving of the State hospitals of the presence of *all* the convict, and *some* of the criminal

insane or so-called "court cases." This is a measure, it must be remembered, which an effort has been making to accomplish for thirty years. The State also by this provision avoids the expensive and roundabout way by which these cases have heretofore reached the asylum at the State Farm, namely, through the State hospitals.

This, then, is an account of the way up to the present time in which Massachusetts has met the demand for separate provision for her insane criminals; but the question now arises in the minds of those thoroughly acquainted with all the conditions, whether as regards the future there has been a complete solution of the problem. A few years ago the State Board of Lunacy and Charity, soon after the transfers to this asylum began to be of the criminal class, stated in their report as follows: "The question of a separate criminal asylum so long agitated has thus been practically settled, at no great cost to the State, and to the relief of all concerned." But even *now*, with what has been accomplished since these words were written, it seems to me that Massachusetts should be slow to congratulate herself that she has disposed of all the questions relating to the care of her insane criminals.

At present this asylum is *one* department of a large institution, the other departments of which differ widely from it; but on account of this relationship the asylum must necessarily be dependent upon general conditions which govern the institution as a whole, and in this particular case, moreover, the asylum is necessarily subject to general conditions which govern *two* State institutions, namely, the Tewksbury Almshouse and the State Farm — both being managed by the same board of Trustees. The practical result of such relationship will be, I think, with departments differing widely in their nature and needs, that one or

the other may suffer, because first, general and relative conditions have to be considered.

For these reasons, then, Massachusetts, which has allowed the question of the separate care of her insane criminals to drift for many years and to almost take care of itself, may yet be brought face to face with conditions and problems which cannot be *properly* settled on any narrow basis. I think it is a question whether the problem can be properly solved short of establishing an institution upon a separate site, and in buildings planned and adapted from the beginning for the *care, treatment, and custody* of the *insane criminals* of the State.

NOTE.— At the meeting of the New England Psychological Society, September 24, 1895, at which this paper was read, the following resolution was passed:

“That it is the sense of this meeting that the State Asylum for Insane Criminals should be separated from the other departments of the State Farm, and placed under a special Board of Trustees.”

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